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**The Honorable James R. Langevin**  
**Opening Statement – “Other Transactions Authority: Flexibility at the Expense of**  
**Accountability?”**  
**February 7, 2008**

Good afternoon. I welcome our witnesses to today’s hearing on Other Transaction Authority at the Department of Homeland Security. I would like to begin by thanking my Ranking Member, Mr. McCaul, for working with me on this issue, and the Chairman of the Full Committee, Mr. Thompson, for his leadership and continued oversight over procurement matters within the Department.

We’re here today to consider the arguments for and against extending the Department’s use of Other Transaction Authority, which is scheduled to sunset in September 2008. Other Transaction Authority – abbreviated as OTA – was originally created to attract non-traditional commercial firms to do business with the federal government. This authority is based on the premise that it is in the federal government’s best interest to attract nontraditional contractors who are at the “cutting edge” of technology, which can lead to new homeland security or defense products that companies might not otherwise have adequate resources to invest in on their own.

The Department of Homeland Security is one of several agencies – including NASA, the Department of Defense, the Department of Energy, and the Department of Health and Human Services – that use OTA. OTA applies only to two types of awards at DHS. One award is known as “Other Transactions for Research,” which are typically used for basic, applied, or advanced research. This type of transaction does not call for a deliverable product, but rather provides support to broaden the homeland technology knowledge base. The other award is known as “Other Transactions for Prototypes,” which are used to help the Department develop or acquire a prototype. Companies who receive awards under OTA are granted exceptional benefits. For instance, an “other transaction” is not subject to the Federal Acquisition Regulation (FAR); most procurement statutes; or the government’s Cost Accounting Standards. Companies are also usually granted greater rights to intellectual property that is produced under the agreement.

The Subcommittee seeks answers to two questions today: First, is OTA premised on sound policy; and second, given the incredible flexibility granted under OTA, are there adequate protections in place to reduce or eliminate any potential abuses? We are not the first to examine these questions. Reports issued earlier this decade suggest that other transactions do indeed expand government access to commercial technology and production capacity and – because of the cost-sharing provisions – do result in lower

overall transaction costs. However, people closely associated with OTA – including a former Department of Defense Inspector General – note that the potential for abuse exists without the traditional protections of the procurement system.

The DOD IG noted during its review of OTA that contracting officers failed to sufficiently document justification for using other transactions; to document the review of cost proposals; and to monitor actual research costs. This led to the IG's testimony in 2002, where the Department concluded that "Based upon the DOD experience, we believe other transactions should be considered only when it is clear that the Government is unable to acquire goods, services, and needed technologies through existing vehicles." In short, though the freedoms associated with OTA may attract more businesses to participate, they also carry significant risks for the federal government. While we all want technology faster and cheaper, we also have to be mindful that we are stewards of American tax dollars.

If we're going to allow this kind of flexibility at the Department, the Department must demonstrate to this Committee that it can be trusted to handle the authority. This means showing that adequate protections are in place to reduce or eliminate any potential abuses of OTA. I hope that Mr. Essig can provide us with assurances that the Department has conducted robust oversight over this process before we consider extending OTA beyond 2008.